IN THE

Supreme Court of the United States

OCTOBER TERM, 1922.

SUPREME LODGE KNIGHTS OF PYTHIAS, *Petitioner,*

vs.

LENA EISER *Respondent.*

No. ————.

PETITIONER'S BRIEF.

The petitioner herein was created by act of Congress on June 29, 1894, 28 U. S. Statutes at Large, pp. 96, 97, Chap. 119. Said statute is as follows:

> "An Act to incorporate the Supreme Lodge of the Knights of Pythias.
>
> Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled:
>
> That Geo. B. Shaw, of the City of Eau Claire, State of Wisconsin; William W. Blackwell, of the City of Henderson, State of Kentucky; Walter B. Richie, of the City of Lima, State of Ohio; Robert L. C. White, of the City of Nashville, State of Tennessee; Philip T. Colgrove, of the City of Hastings, State of Michigan, and Tracy R. Bangs, of the City of Grand Forks, State of North Dakota, officers and members of the Supreme Lodge Knights of Pythias, and their successors, be and they are hereby incorporated and

made a body politic and corporate in the District of Columbia, by the name of "The Supreme Lodge Knights of Pythias," and by that name it may sue and be sued, plead and be impleaded, in any court of law or equity, and may have and use a common seal, and change the same at pleasure, and be entitled to use and exercise all the powers, rights and privileges incidental to fraternal and benevolent corporations within the District of Columbia.

Sec. 2. That the said corporation shall have the power to take and hold real and personal estate, not exceeding in value one hundred thousand dollars, which shall not be divided among the members of the corporation, but shall descend to their successors for the promotion of the fraternal and benevolent purposes of said corporation.

Sec. 3. That all claims, accounts, debts, things in action or other matters of business of whatever nature now existing for or against the present Supreme Lodge Knights of Pythias, mentioned in section 1 of this act, shall survive and succeed to and against the body corporate and politic hereby created; provided, that nothing contained herein shall be construed to extend the operation of any law which provides for the extinguishing of claims or contract by limitations of time.

Section 4. That said corporation shall have a constitution and shall have power to amend the same at pleasure; provided, that such constitution or amendments thereof do not conflict with the laws of the United States or of any State.

Section 5. That Congress may at any time amend, in any business for gain; the purpose of said corporation being fraternal and benevolent.

Section 6. That Congress may at any time amend, alter or repeal this act.

Approved June 29, 1894."

1.

A corporation created by a federal statute is "inherently entitled to invoke" the federal jurisdiction.

Texas Pacific R. Co. v. Hill, 237 U. S. 208, 59 L. Ed. 918;

Texas Pacific R. Co. v. Marcus, 237 U. S. 215, 59 L. Ed. 924;

Supreme Lodge Knights of Pythias v. Mims, 241 U. S. 574, 60 L. Ed. 1179;

Supreme Lodge Knights of Pythias v. Smyth, 245 U. S. 594, 62 L. Ed. 492.

2.

The proper construction of a federal statute is primarily for the federal courts; and the charter rights and powers of petitioner under its federal charter are for the final determination of the federal courts.

Union Pacific R. Co. v. Myers, 115 U. S. 1, 29 L. Ed. 319;

Texas Pacific R. Co. v. Cody, 166 U. S. 606, 41 L. Ed. 1132;

Matter of Dunn, 212 U. S. 387, 53 L. Ed. 563.

3.

The charter of a corporation as construed by the courts of its domicile or creation is the measure of its rights everywhere, and where a class suit is brought in the courts of the jurisdiction of the corporation's domicile, the judgment defining the rights of said corporation are obligatory every-

where under the full faith and credit clause of the federal constitution.

Supreme Council Royal Arcanum v. Green, 237 U. S. 531, 59 L. Ed. 1089;

Hartford Life Ins. Co. v. Ibs, 237 U. S. 662, 59 L. Ed. 1165.

4.

Of necessity, the courts of the jurisdiction creating a corporation must constitute the final authority as to the validity of its rules, regulations, and by-laws.

Clark v. Mutual Reserve Fund Life Assn., 14 App. Cas. (D. C.) 154, 43 L. R. A. 390;

Condon v. Mutual Reserve Fund Life Assn., 89 Md. 93, 44 L. R. A. 149, 73 Am. St. 169;

State v. Shain, 245 Mo. 78, 149 S. W. 479.

Brenizer v. Supreme Council Royal Arcanum, 141 N. C. 409, 5 L. R. A. N. S. 235, 53 S. E. 835;

Royal Fraternal Union v. Lunday, 51 Tex. Civ. App. 637, 113 S. W. 185;

Taylor v. Mutual Reserve Fund Life Assn., 97 Va. 60, 46 L. R. A. 621.

5.

The case of *Holt, et al. v. Supreme Lodge Knights of Pythias*, was a class suit, having been brought and maintained by the complainants "in their own behalf and on behalf of all others similarly situated," in the United States District Court for the District of Indiana; and the judgment therein rendered, which was affirmed on appeal (See 149 C.

C. A. 197, 235 Fed. 885), is *res judicata* as to all matters therein alleged, one of which was that the Supreme Statutes of the order increasing rates was and is valid and obligatory, said judgment expressly holding said rates valid.

Supreme Tribe Ben Hur v. Cauble, 255 U. S. 356;
Supreme Council Royal Arcanum v. Green, 237 U. S. 531, 59 L. Ed. 1089;
Hartford Life Ins. Co. v. Ibs, 237 U. S. 662, 59 L. Ed. 1165.

6.

Although said judgment was specially pleaded in petitioner's answer and was introduced in evidence, the District Court of Otoe County failed and refused to give effect to said judgment, and the Supreme Court of the State of Nebraska in affirming said judgment failed and refused to give full faith and credit to said judgment as guaranteed by the Art. 4, Section 1, of the Federal Constitution and by Section 905, R. S. U. S.

Hartford Life Ins. Co. v. Ibs, 237 U. S. 662, 59 L. Ed. 1165;
Supreme Council Royal Arcanum v. Green, 237 U. S. 521, 59 L. Ed. 1089.

7.

Where the highest court of the jurisdiction creating the corporation being the United States Supreme Court in this case, has adjudicated the rights and powers possessed by a

corporation, it is the duty of other courts to follow such adjudication and to give effect to such powers.

Supreme Council Royal Arcanum v. Green, 237 U. S. 531, 59 L. Ed. 1089;

Hartford Life Ins. Co. v. Ibs, 237 U. S. 662, 59 L. Ed. 1165.

8.

Judgments of the Federal courts are entitled to full faith and credit in the state courts, the same as judgments of the state courts, under Art. 4, Sec. 1, of the federal constitution, and section 905, R. S. U. S.

Hancock Nat. Bank v. Farnum, 176 U. S. 645, 45 L. Ed. 622;

Union, etc., Bank v. Memphis, 189 U. S. 75, 47 L. Ed. 715;

Metcalf v. City of Watertown, 153 U. S. 671, 38 L. Ed. 861.

9.

A judgment must be given the same force and binding effect in another state which it has in the state rendering such judgment.

Hampton v. McConnell, 3 Wheat. 234, 4 L. Ed. 378;

Mills v. Durgee, 7 Cranch 481, 3 L. Ed. 411;

Fauntleroy v. Lum, 210 U. S. 236, 52 L. Ed. 1042.

The plaintiff's assured having been a party to the Holt case, brought to declare void and illegal, all the supreme statutes of the petitioner, increasing the rates of insurance,

cannot now, after such rates have been held valid and obligatory, in such case, raise the question of the validity of such rates, even though a different ground therefor be alleged, which there is not.

Holt County v. National Life Ins. Co., 25 C. C. A. 469, 80 Fed. 686;

Dimack v. Revere Copper Co., 117 U. S. 559, 29 L. Ed. 994;

Reynolds v. Mandel, 175 Ill. 615, 51 N. E. 649;

Bates v. Brodie, 245 U. S. 526, 62 L. Ed. 444;

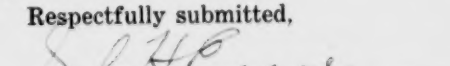
Mitchell v. First Nat. Bank of Chicago, 180 U. S. 471, 45 L. Ed. 627;

Union Pacific R. Co. v. Wyler, 158 U. S. 285, 39 L. Ed. 983;

Boston, etc., R. Co. v. Hurd, 47 C. C. A. 615, 108 Fed. 116, 56 L. R. A. 193.

In view of the foregoing provisions of our federal constitution, and statutes, and the uniform adjudications thereunder; and under our system of government and the application of our federal and state laws, your petitioner has not received its legal rights, and is entitled to a reversal of the judgment of said Supreme Court of Nebraska.

Respectfully submitted,



Attorneys for Petitioner.